

**METHUEN CONSERVATION COMMISSION**  
**Minutes of Meeting – January 5, 2012**

The City of Methuen Conservation Commission held a public meeting on January 5, 2012 at 7:00 p.m. in the Searles Building 2<sup>nd</sup> floor conference room. Present for this meeting were Suzanne M. Lamoureux, Chairperson, John Wilkens, Vice Chairperson, George Kazanjian, Financial Secretary, and Commissioners Christopher Parsons and Robert Parker. Also present were Joseph T. Giarrusso, Conservation Officer and Head Clerk, Dianne A. Dewan. Absent was Sandra Boulay, Secretary.

The Chairperson called the meeting to order at 7:07 p.m.

**I. NOTICES OF INTENT:**

- A. Notices of Intent – DEP File # 219-1086 – MCC File # 10-004 – 100 Danton Drive – Danton Development Associates, LLC – Level Design Group LLC (Con't from 12/01/11)

Mrs. Dewan explained that this was mistakenly put on this agenda. It had been continued to the meeting of January 19, 2012 at the meeting of December 15, 2011.

- B. Notice of Resource Area Delineation – DEP File #219-1112 – 615 Prospect Street – Dr. Kenneth Macoul – Basbanes Wetland Consulting

The file in order, a motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ACCEPT the Notice of Resource Area Delineation for the above noted property.

Leah Basbanes of Basbanes Wetland Consulting noted that this request is for a simple delineation of Bordering Vegetated Wetlands on the property at 615 Prospect Street. Norse Environmental originally flagged the delineation back in 2003. She was hired by the applicant about 2 years ago to review the delineation. She has since reviewed it several times and over the years, the flags have come and gone, but most recently, they were surveyed per the original plan on the site. When she went to review the delineations several years ago, she did make a couple of recommendations to the engineering firm who hired her at that point. When the line was re-staked back out in the field, those recommendations were not placed in the field. Subsequently, when she and Joe went out to review the line that was submitted two weeks ago, they noticed that there were some changes that needed to be made. They made the changes in the field and have since resurveyed that and submitted a revised plan. The plan before the Commission tonight reflects the changes that she and Joe agreed upon in the field.

Mr. Giarrusso noted that, as stated in his report, he and Ms. Basbanes reviewed the site specifically for Bordering Vegetated Wetland and as a result, they reviewed the flag line as stated in his report; the new A1 thru the new A25 and also the B line from 12B to 15B. All other flags, because of the lack of significance to what the developer is proposing, were not reviewed or verified, but in his opinion, those two series are accurate and comply with the Regulations.

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Ms. Lamoureux clarified that was as shown on the plan dated December 21, 2011, and asked if there were any questions from the Commission. There were none.

Ms. Lamoureux then asked if there was anyone from the public that would like to speak on the Notice of Resource Area Delineation for 615 Prospect. There was none.

A motion was then made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to CLOSE the public hearing for the above Notice of Resource Delineation. The Commission now has 21 days in which to issue a decision. It will not be issued this evening.

**II. CALL TO ORDER:** The Chairperson called the regular meeting to order at 7:11 p.m.

**III. ACCEPTANCE OF AGENDA / AMENDMENTS (IF ANY):** A motion was made by Mr. Parsons; seconded by Mr. Kazanjian; so voted, UNANIMOUS to ACCEPT the Agenda, amending the MCC File number under New Business, item A to read # 11-019 rather than # 11-017.

**IV. ACCEPTANCE OF MINUTES:** 12/02/2010, 09/22/11 and 11/17/11  
A motion was made by Mr. Wilkens; seconded by Mr. Kazanjian; so voted, UNANIMOUS to APPROVE the minutes of September 22, 2011 and November 17, 2011 as written. There was not a quorum present to approve the minutes of December 2, 2011.

**V. NEW BUSINESS:**

A. Request for Determination of Applicability – MCC File # 11-017 – 21 Pearl Street –  
Noureddine Mhal

Mr. Mhal submitted a copy of the legal notice and presented the plans for the removal and replacement of an existing garage, 24' by 24', on the left side of the existing single family dwelling located within 55' of Bordering Vegetated Wetlands associated with a no name intermittent stream/retention area located on the abutting property.

Mr. Giarrusso noted that the resource area that is being protected in this situation is actually on the abutting property and it is the cascading drainage system/stream system that runs through Temple Drive.

Hearing no questions of the Commission, Mr. Kazanjian made a motion that was seconded by Mr. Parker; so voted, UNANIMOUS to ISSUE Negative 3 Determinations with Standard Boiler Plate, standard conditions #2 and 7 waived under the State and #7 under the local requiring a letter upon completion and adding the following special conditions:

- **Before Demolition or Building Permit may be signed off**, erosion control consisting of double-staked hay bales shall be installed along the existing fence. Installation shall be inspected and approved by the Conservation Commission or its agent.

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- A dumpster will be used for the construction debris to prevent materials from blowing into the resource area(s) and it shall be covered at the end of each workday.
- All materials shall be stockpiled in the front of the property.
- Existing grades shall not be altered as a result of the proposed work.

B. Request for Determination of Applicability – MCC File # 11-018 – 87 Pleasant Valley Street  
Agri-Mark, Inc.

Ralph Viscomi, Senior Vice President of Information Technology at Agri-Mark Inc. submitted a copy of the legal notice and presented the plans for the construction of an additional 12' by 6' generator pad within 55' of Bordering Vegetated Wetlands associated with a no name intermittent stream located on the property. He provided the Commission with a handout of a plan of the building in relation to the road and parking lots as well as the detention basin next to it. The second page shows what they are requesting to install. The building currently has a generator abutting the building as well as several air conditioning units that supports the dialysis center on the first floor of the building. They would like to install a pad and 50-kilowatt generator for their computer line. It will be a 10' by 4' pad surrounded by a fence. The generator will be a diesel generator. There is no gas on that side of the building. The natural gas feed for building is on the opposite side of the building.

In response to Mr. Wilkens question, Mr. Viscomi answered that there is a tank right under the diesel unit itself. It is incorporated in the unit itself.

Mr. Giarrusso noted that the sketch that was just submitted was not part of the original application. He had a different impression of what was going to occur. This is a similar situation as what the Commission just dealt with there being a cascading wetland / detention system that runs from Route 213, through the Loop, then off Pleasant Valley Street, down and eventually into Hillsies Pond. There is a 50' separation and a carved out slope area that separates the base of the area where the resource area presently lies. He asked if he could assume if the generator system is self-contained and comes with some type of storage dyke system so that the fuel tank is self-contained as well.

Mr. Viscomi noted that was his understanding, but could not swear to that because all that they have gotten from the contractor is the basic information about the generator and the installation.

Mr. Giarrusso noted that this is something that has to be approved by the Fire Department as well. They would require that it meet the standards regarding being diked.

A motion was made by Mr. Parker; seconded by Mr. Wilkens; so voted, UNANIMOUS to ISSUE Negative 3 Determinations with Standard Boiler Plate, standard conditions #2 and 7 waived under the State and #7 under the local requiring a letter upon completion and adding the following special conditions:

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- **Before work may begin**, erosion control consisting of double staked hay bales shall be installed along the west side of the proposed work area. Installation shall be inspected and approved by the Conservation Commission or its agent.
- No stockpiling of materials shall be allowed within the Commission's jurisdiction.
- Existing grades shall not be altered as a result of the proposed work.
- The installation shall be coordinated with, inspected and approved by the Conservation office.

**VI. OLD BUSINESS:**

A. Enforcement

1) EO # 11-003 – 18 Lowell Blvd. – Matd

Mr. Giarrusso noted that, as discussed at earlier meetings, the majority of items associated with the above noted enforcement order have been addressed. There were some outstanding issues dealing with the documentation of the removal of debris on the site. The property owner has been unable to get them from the person he had contracted to do the work and is here this evening before the Commission with an update on whether or not he is going to be able to provide that information. If he isn't, the Commission is going to have to make a decision on how they want to address this failure to comply with that requirement.

Dr. Katib gave a brief history of what happened on the site regarding the fire and cleanup of debris. He has called the contractor 20 times to get a copy of the receipt of where it was taken. The contractor keeps saying tomorrow and he still has not been able to get it.

Mr. Giarrusso noted that this requirement was to insure that the debris was properly disposed of. The property owner, who is ultimately responsible, has failed to comply with that Order. If the Commission wants, they can pursue the contractor. He has some limited information on the contractor.

Ms. Lamoureux suggested that the Commission send a letter to the contractor saying that they have requested that the property owner provide this information and would like to have it.

Mr. Giarrusso noted that the Commission then needs detailed information on the contractor. They would need some type of business address and as much information as possible if he is to go after the contractor saying that he is presently in violation by doing work on this property without proper permits and approvals and are responsible. He will also be open the fines as well. A notice of violation will be sent to the contractor stating that fines can be imposed.

The Commission noted that they want the information by Monday so they can send the letter to the contractor. They continued this for an update to the meeting of January 19, 2012.

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B. Orders of Conditions/Bond – DEP File #219-1098– MCC File # 11-001 – 483 Howe Street - Central Catholic High School of Lawrence

A motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to ISSUE Orders of Conditions with Standard Boiler Plate, General Condition #4, changed from “one year” to “three years”, General Condition #33, as shown on the approved plans, General Condition #48, to reference Special Conditions D, E, I and J and adding the following:

**Findings:**

The Notice of Intent submitted by Central Catholic High School of Lawrence with plans by Hancock Associates, Sheets 1 thru 13, revised December 14, 2011 and Sheets L1 and L2, dated July 27, 2011, revised December 14, 2011, with submitted “DATA REPORT Addendum” dated December 14, 2011 is for the proposed construction of a sports facility, including playing fields, a facility building, access roadway and associated grading and appurtenances, such as drainage system and utilities. Additional proposed work includes the filling of existing Bordering Vegetated Wetlands and alterations to Inland Bank along an existing intermittent stream that flows north to south through the property, which will result in alterations/impacts (*as stated in the submitted NOI*) to the following resource areas: Inland Bank (310 CMR 10.54) (40’ + 56’ Temp. Alt. as stated in the revised WPA Form 3 – Notice of Intent, while plans appears to propose approximately 69’) linear feet, Bordering Vegetated Wetlands (310 CMR 10.55) (1,800 sq/ft as stated in the revised WPA Form 3 – Notice of Intent, with 1,300 sq/ft associated with WF – “E”, 500 sq/ft associated with WF – “F”, for total impact of 1,800 square feet, with the proposed replacement of 3,600 square feet. The applicant is proposing to install erosion control consisting of double-staked hay bales and silt fence, at the proposed limits of work.

**And Special Conditions:**

A. **Before ANY activity on the site may begin**, the Contractor, job supervisor, and City Engineer shall meet with the Conservation Officer to review the Order of Conditions, Construction Sequence, Erosion Control plan and timetable for the project. At this time, the contractor shall review any issues with the location of stockpile areas. Copies of other required Local, State and Federal permits shall be submitted at this time.

B. **Before ANY activity on the site may begin**, the Applicant shall submit four (4) copies of all necessary information to address issues raised in Engineering Division’s letter dated December 29, 2011. The applicant will be responsible for all costs associated with this review. All comments shall be reviewed and verified by the City’s Engineering Division, which shall submit a final report to the Commission. The Commission shall approve the findings and at that time shall determine and set the bonds for approved phasing of the project.

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C. **Before ANY activity on the site may begin**, the limit of work SHALL be staked in the field. The Conservation Commission or its agent shall inspect it before work may begin. Should this project be phased, the applicant shall provide the Commission with an Erosion Control Plan that clearly shows the phasing of required erosion control devised to be installed at each phase of the project.

D. The applicant shall comply with the Stormwater Management and Maintenance Plan, and copies of all drainage maintenance reports shall be submitted to the Commission. **This condition shall remain in perpetuity.**

E. The proposed Athletic Complex shall be in operation between April 1<sup>st</sup> thru December 1<sup>st</sup> of each year. There shall be no organized events, practices and/or maintenance of the complex beyond the cited time period. The filing of an amendment to the Order of Conditions shall be required to change the period of operation. Members and agents of the Methuen Conservation Commission shall have the right to enter and inspect the premises to evaluate the conditions and to require the submittal of any data deemed necessary by the Commission for that evaluation. **Failure to comply with this condition will result in a fine of \$100.00 per day that the property owner is in non-compliance. This condition shall remain in perpetuity.**

F. The proposed Replication Area shall be constructed as outlined in the report submitted to the Commission in the Data Report Addendum, dated December 2, 2011, revised December 14, 2011, and Sheets L1 & L2 dated July 27, 2011, revised December 14, 2011. The Commission shall receive a report once the area is completed, outlining all requirements of the approved plan, including an as-built plan to ensure that the area is in compliance. This report is not to replace the two monitoring reports that shall be done after each growth season and after which the applicant may apply for a Certificate of Compliance.

G. A copy of the foundation certification(s) showing the location of the foundation(s) and **cellar floor and/or top of foundation elevation(s)** shall be submitted to the Commission and approved **before** a final building permit is released. This plan shall be at the same scale as the approved plan and shall include the location of installed erosion control and wetland flags.

H. A dumpster will be used for the construction debris to prevent materials from blowing into the resource area(s) and it shall be covered at the end of each workday.

I. **Before Occupancy Permit may be issued**, permanent Conservation markers consisting of pressure treated 4"x4" posts with markers available at the Commission Office shall be installed every 20 feet along the sections of the limit of work, which is within the 50' no disturb zone. (In the areas that post and rail fence is installed, markers shall be placed on the fence posts.) Once installed, the Commission and/or its agents shall inspect them before permit is released. **These markers shall be maintained in perpetuity and any violation of this condition shall result in fines of not less than \$100.00 per day and requirement of restoration of impacted markers and/or vegetation.**

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J. Should plowing or snow removal be required during the period of operation, ALL stockpiled snow shall be confined to locations outside of the Commission's jurisdiction. **NO** sanding and/or salting shall be allowed on property at any time. **Failure to comply with this condition will result in a fine of \$100.00 per day that the property owner is in non-compliance. This condition shall remain in perpetuity.**

K. Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. Should dewatering be required for the construction, the Commission shall be notified and shall approve the methods used.

C. Orders of Conditions/Bond – DEP File # 219-1110 – MCC File # 11-012 – Lots 54, 54A & 54C Broadway – KK Realty Trust

A motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to ISSUE Orders of Conditions with Standard Boiler Plate, General Condition # 4 General Condition #4, changed from “one year” to “three years”, General Condition # 24 to require a bond in the amount of \$4,000, General Condition #33, to read 100’, General Condition #48, to reference Special Conditions D and F and adding the following:

**Findings:**

The Notice of Intent filed by KK Realty Trust and plan by Andover Consultants Inc. dated September 13, 2011, revised December 7, 2011 is for the proposed mitigation of the violations associated with Enforcement Order MCC # 11- 001 for the clearing of vegetation, placing of fill and improper disposal of stumps and miscellaneous debris within jurisdictional areas associated with Bordering Vegetated Wetlands, Land Subject to Flooding and Endangered Species Habitat on an existing commercial property, which will include restoration of filled Land Subject to Flooding (415 sq/ft) and the 50’ buffer to existing Bordering Vegetated Wetlands. The submitted plan proposes erosion control and post and rail fencing to limit impacts to the resource and buffer areas as part of the proposed mitigation.

**And Special Conditions:**

A. **Before ANY activity on the site may begin**, the Contractor and job supervisor shall meet with the Conservation Officer to review the Order of Conditions, Construction Sequence, Erosion Control plan and timetable for the project.

B. **Before ANY activity on the site may begin**, erosion control shall be installed at the limit of work as shown on the approved plan. The Conservation Commission or its agent shall inspect it before work may begin.

C. ALL fill to be removed shall be completed within **6 months** of the issuance of the Order of Conditions. Should the required work not be completed within this time period, the

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Applicant shall be in violation of this Order. **Failure to comply with this condition will result in a fine of \$100.00 per day that the property owner is in non-compliance.**

D. The applicant shall comply with the Stormwater Management and Maintenance Plan, and copies of all drainage maintenance reports shall be submitted to the Commission. **This condition shall remain in perpetuity.**

E. ALL Vegetation Restoration shall be complete within **8 months** of the issuance of the Order of Conditions. The Commission shall receive a report once the area is completed, outlining all requirements of the approved plan, including an as-built plan to ensure that the area is in compliance. Should the restoration not be completed within this time period, the Applicant shall be in violation of this Order. **Failure to comply with this condition will result in a fine of \$100.00 per day that the property owner is in non-compliance.**

F. The post and rail fence shall be installed as shown on the approved plan with Conservation markers available at the Commission Office placed on fence posts. Once installed, the Commission and/or its agents shall inspect them. **These markers shall be maintained in perpetuity and any violation of this condition shall result in fines of not less than \$100.00 per day and requirement of restoration of impacted markers and/or vegetation.**

D. Orders of Conditions/Bond – DEP File #219-1111 – MCC File # 11-013 – 1-5 Russell Farm Drive – Homestead Village, LLC

A motion was made by Mr. Wilkens; seconded by Mr. Parsons; so voted, UNANIMOUS to ISSUE Orders of Conditions with Standard Boiler Plate, General Condition # 4 General Condition #4, changed from “one year” to “three years”, General Condition # 24 to require a bond in the amount of \$ 9,600, General Condition #33, to read 100’ and adding the following:

**Findings:**

The Notice of Intent filed by Homestead Village, LLC and plans by MHF Design Consultants Inc. dated November 4, 2011, (sheets 1 thru 6 of 6), is for the proposed construction of one 3 unit housing condominium in an existing housing development site, which will include improvements to the existing parking area and drainage system that will result in alterations to the following area: Buffer Zone to existing Bordering Vegetated Wetlands. The submitted plan proposes erosion control to limit impacts to the resource area.

**And Special Conditions:**

A. **Before any work is done**, the Contractor, job supervisor, and City Engineer shall meet with the Conservation Officer to review the Order of Conditions, Construction Sequence and timetable for the project. At this time, the contractor shall review any issues with the location of stockpile areas and provide copies of any other required permits.

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B. **Before ANY activity on the site may begin**, the Limit of Work SHALL be staked in the field and installed. The Conservation Commission or its agent shall inspect it before work may begin. Erosion control shall consist of BOTH double stake hay bales and silt fencing.

C. A copy of the foundation certification showing the location of the foundation and **cellar floor/or top of foundation elevation** shall be submitted to the Commission and approved **before** a final building permit is released. The plan shall include the location of the wetland flags and be at the same scale as the approved plan.

D. A dumpster will be used for the construction debris to prevent materials from blowing into the resource area(s) and it shall be covered at the end of each workday.

E. Prior to any field changes, a written request to include drawings shall be submitted for review and approval by the Commission and/or its agent. Should dewatering be required for the construction, the Commission shall be notified and shall approve the methods used.

**VII. INSPECTOR'S REPORT:** In addition to his written report, Mr. Giarrusso noted the following:

- 1) Mr. Giarrusso noted that he has been contacted by Merrimack Engineering Services regarding some test pits they need to do on Addison Avenue, which is off Farmington Avenue. You have to go into Haverhill and then back to Methuen to get to it. He presented a plan entitled "Plan of Land", dated January 4, 2012, to the Commission explaining that they want to do some test pits that would require crossing an intermittent stream. The method of crossing is outlined in an e-mail dated 1/4/2012 from Stephen Stapinski of Merrimack Engineering.

After some discussion, the Commission determined that they would allow Mr. Giarrusso to administratively oversee the crossing of the resource area with a track vehicle using timbers. The resource area would be less likely impacted by this type of traffic during the frozen conditions this time of year. Any disturbed areas would be stabilized and any grading changes would require a proper filing.

**VIII. OTHER BUSINESS:** There was no other business at this time.

**IX. ADJOURN:** A motion was made by Mr. Kazanjian; seconded by Mr. Parker; so voted, UNANIMOUS to ADJOURN the meeting at 7:47 p.m.

Respectfully submitted by:

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Dianne A. Dewan  
Head Clerk

Reviewed by:

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Suzanne M. Lamoureux,  
Chairperson

Approved on:

\_\_\_\_\_  
Date Approved